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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,207	11/17/2003	Antonio Marchetti	P69272US0	9570
136	7590	08/13/2004	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			HUYNH, LOUIS K	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/713,207	Applicant(s) MARCHETTI, ANTONIO <i>an</i>	
	Examiner Louis K. Huynh	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-5 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/14/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

The specification lacks proper headings. Applicant is respectfully requested to amend the specification with proper headings to conform with current U.S. practice.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors, for example:

claim 1, lines 13-14: “a vertically mobile touching group for detecting the height of the boxes” renders the claim indefinite for it is unclear whether the “vertically mobile touching group for detecting the height of the boxes” is the “means for detecting the position and the dimensions of the box” set forth in the claim;

claim 5 appears to be incomplete for lacking the structural limitations that enable the longitudinal central guide to move to the horizontal position.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art) in view of Marchetti'826 (US 4,218,862).

AAPA discloses a "self-dimensioning" machine for closing flaps of a box including a base with support surface for the box, a couple of drive belts that can be motorized placed at the two sides of said support surface and that can be brought close to each other to make a drive engagement with the sides of the box, a head above said support surface, that carries devices for closing the front, rear and side flaps of the box and can be commanded to descend from a rest position for engaging the above-mentioned devices with the upper flaps of the box for their closure, means for detecting position and dimension of the box (suitable mechanical or photocell or other sensors) provided for the automation of the various movements in accordance with the position and the dimensions of the box (specification on page 1, lines 13-23). The AAPA machine meets all of applicant's claimed subject matter but lacks the specific teaching of a rod pivoted on the head for straightening and partial closing the front flap, a longitudinal central guide for completing the closing of the front flap.

Marchetti'862 discloses a machined for closing upper flaps (27, 28, 29) of a parallelepiped box (26) including a closure member (14) pivoted to a support (12) for

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overturning the front flap (27) of the box (26), and a central guide (10) carried on an vertically adjustable frame (6) for engaging the overturned front flap (26).

It would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have modified the AAPA by having provided a closure member for overturning the front flap of the box and a central guide for engaging the overturned front flap, as taught by Marchetti'862, in order to turn the front flap of the box over into a closed position.

With respect to Claim 2, the means for detecting the dimension of the box disclosed in the AAPA machine inherently detects the height of the box since the height of the box is a dimension must be detected in order to place the flap closing mechanisms at the desired positions for turning the flaps into their closed positions.

With respect to Claim 3, since the closure member (14) of the Marchetti'862 is flexibly kept in a vertical position by a pneumatic cylinder (13), the modified AAPA machine would have included such pneumatic cylinder in order to keep the closure member in a vertical position.

Allowable Subject Matter

6. Claims 4 and 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

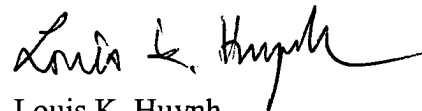
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694.

The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh
Patent Examiner
Art Unit 3721

August 09, 2004